

PART 2822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

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AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16129, Apr. 2, 1998, unless otherwise noted.

Subpart 2822.1—Basic Labor Policies

2822.101 Labor relations.

2822.101–1 General.

All matters regarding labor relations shall be handled in accordance with bureau procedures.

2822.101–3 Reporting labor disputes.

The office administering the contract shall report, directly to the contracting officer, any potential or actual labor disputes that may interfere with performing any contracts under its cognizance.

2822.103 Overtime.

2822.103–4 Approvals.

The inclusion of a dollar amount greater than zero in paragraph (a) of the FAR clause 52.222–2, Payment For Overtime Premiums, must be approved at a level above the contracting officer. Such approval shall be reflected by the signature of the approving official on the contracting officer's written determination made in accordance with FAR 22.103–4.

Subpart 2822.4—Labor Standards for Contracts Involving Con- struction

**2822.406 Administration and enforce-
ment.**

2822.406–8 Investigations.

Pursuant to FAR 22.406–8(d), the contracting officer shall prepare and forward the report of violations to the HCA or designee at a level not lower than the BPC. That official shall be responsible for processing the report in accordance with FAR 22.406–8(d)(2).

Subpart 2822.13—Special Dis- abled and Vietnam Era Vet- erans

2822.1303 Waivers.

In accordance with FAR 22.1303, all requests for waivers shall be forwarded from the HCA to PPRG, JMD, for processing to the Attorney General.

PART 2823—ENVIRONMENT, CON- SERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORK- PLACE

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2823.404–70 Affirmative procurement program for recycled materials.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16130, Apr. 2, 1998, unless otherwise noted.

Department of Justice

2823.404–70

Subpart 2823.1—Pollution Control and Clean Air and Water

2823.107 Compliance responsibilities.

If a contracting officer becomes aware of noncompliance with clean air, water or other affected media standards in facilities used in performing nonexempt contracts, that contracting officer shall notify the Department of Justice Environmental Executive (DOJEE).

Subpart 2823.3—Hazardous Material Identification and Material Safety Data

2823.303–70 Departmental contract clause.

The contracting officer shall insert the clause at 2852.223–70, Unsafe Conditions Due to the Presence of Hazardous Material, in all solicitations and contracts, as appropriate, if the contract will require the performance of services on Government-owned or Government-leased facilities.

Subpart 2823.4—Use of the Recovered Materials

2823.403 Policy.

It is the policy of DOJ that its contracting activities and contractors that procure on behalf of DOJ, acquire EPA designated items in accordance with EPA's Comprehensive Procurement Guideline For Products Containing Recovered Materials (CPG) (40 CFR part 247). The recommended minimum recovered materials content of EPA designated items is set forth in EPA's Recovered Materials Advisory Notices (RMANs) and in E.O. 12873 as amended. These publications are available from the DOJEE.

2823.404 Procedures.

(a) The program office initiating the acquisition is responsible for determining if recovered materials should be included in the specification. Procurement offices are responsible for informing program offices of the requirement for writing specifications for designated items that include minimum content standards specified in the RMANs.

(b) If the program office chooses to procure designated items containing less than the minimum content standards, and program office must justify that decision in writing and include a copy of the signed justification with the procurement request package. FAR 23.404(b)(3) sets forth the only acceptable justifications for acquiring EPA designated items which do not meet the minimum content standard. The contracting officer is the approving official for justifications made pursuant to FAR 23.404(b)(3). Contracting officers are responsible for including a signed copy of the justification in the acquisition file and submitting a copy of the approved justification to the DOJEE.

2823.404–70 Affirmative procurement program for recycled materials.

(a) *Recovered materials preference program.* Preference will be given to procuring and using products containing recovered materials rather than products made with virgin materials when adequate competition exists, and when price, performance and availability are equal.

(b) *Promotion program.* The DOJEE has primary responsibility for actively promoting the acquisition of products containing recycled materials throughout DOJ. Technical and procurement personnel will cooperate with the DOJEE to actively promote DOJ's Affirmative Procurement Program (APP).

(c) *Procedures for vendor estimation, verification and certification—*(1) *Estimation.* The contractor shall provide estimates of the total percentage(s) of recovered materials for EPA designated items to be used in products or services provided.

(2) *Certification.* Contracting officers shall provide copies of all vendor and subcontractor certifications required by FAR 23.405(b) to the DOJEE.

(3) *Verification.* The DOJEE is responsible for periodically reviewing vendor certification documents and waivers as part of the annual review and monitoring process to determine if DOJ is in compliance with E.O. 12873 and subsequent amendments.

PART 2824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 2824.2—Freedom of Information Act

Sec.

2824.202 Policy.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16130, Apr. 2, 1998, unless otherwise noted.

Subpart 2824.2—Freedom of Information Act

2824.202 Policy.

Procedures for processing Freedom of Information Act requests are set forth in Departmental regulations and 28 CFR part 16.

[63 FR 16130, Apr. 2, 1998]

PART 2825—FOREIGN ACQUISITION

Subpart 2825.2—Buy American Act—Construction Materials

Sec.

2825.203 Evaluating offers.

Subpart 2825.3—Balance of Payments Program

2825.302 Policy.

Subpart 2825.9—Additional Foreign Acquisition Clauses

2825.901 Omission of audit clause.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16130, Apr. 2, 1998, unless otherwise noted.

Subpart 2825.2—Buy American Act—Construction Materials

2825.203 Evaluating offers.

The HCA, or designee at a level not lower than the BPC, is the agency official authorized to make determination that using a particular domestic construction material would unreasonably increase the cost of the acquisition or would be impracticable.

Subpart 2825.3—Balance of Payments Program

2825.302 Policy.

The HCA, or designee at a level not lower than the BPC, is the agency official authorized to make determinations under FAR 25.302(b)(3), as well as authorize the use of a differential greater than 50 percent, as specified in FAR 25.302(c), for the evaluation of domestic and foreign offers under the Balance of Payments Program. All determinations made under this section shall be in writing and shall set forth the facts and circumstances supporting the determination. Determinations shall be reviewed and concurred in by the contracting activity's legal counsel.

Subpart 2825.9—Additional Foreign Acquisition Clauses

2825.901 Omission of audit clause.

The HCA, or designee at a level not lower than the BPC, is the agency official authorized to make determinations under FAR 25.901(c). All determinations made under this authority shall be reviewed and concurred in by the contracting activity's legal counsel prior to being approved by the authorized agency official.